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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-400

13 **EVE O. ALLAWAY**
2765 Foxford Way
14 Sparks, NV 89436

ACCUSATION

15 Registered Nurse License No. 418170

16 Respondent.

17
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 2. On or about August 31, 1987, the Board issued Registered Nurse License Number
23 418170 to Eve O. Allaway ("Respondent"). The license was in full force and effect at all times
24 relevant to the charges brought herein and will expire on September 30, 2013, unless renewed.

25 **STATUTORY AND REGULATORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part,
27 that the Board may discipline any licensee, including a licensee holding a temporary or an
28

1 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
2 Nursing Practice Act.

3 4. Code section 2761 states:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an
5 application for a certificate or license for any of the following:

6 (a) Unprofessional conduct, which includes, but is not limited to, the following:

7 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
8 functions."

9 5. California Code of Regulations, title 16, section 1442, states:

10 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure
11 from the standard of care which, under similar circumstances, would have ordinarily been
12 exercised by a competent registered nurse. Such an extreme departure means the repeated failure
13 to provide nursing care as required or failure to provide care or to exercise ordinary precaution in
14 a single situation which the nurse knew, or should have known, could have jeopardized the
15 client's health or life."

16 6. California Code of Regulations, title 16, section 1443, states:

17 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or
18 the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
19 exercised by a competent registered nurse as described in Section 1443.5."

20 **COST RECOVERY**

21 7. Code section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 **BACKGROUND INFORMATION**

26 8. On or about June 22, 2008, while employed as a registered nurse and working in
27 the Intensive Care Unit ("ICU") at Tahoe Forest Hospital, located in Truckee, California,
28 Respondent was assigned to monitor an 83-year-old male patient ("M83") who had been admitted

1 in to the ICU with a diagnosis of Acute Near Syncope, marginally suspicious Troponin levels,
2 and a history of Aortic Stenosis. At approximately 0240 hours, Respondent hooked up the
3 electrocardiogram ("ECG") monitor to M83. Shortly thereafter Respondent received a new
4 patient in the ICU. While discussing that patient's care with family, M83's cardiac alarm
5 sounded. Respondent looked at the monitor and saw artifact (alarms caused by external factors
6 such as patient movement). Respondent then disabled M83's cardiac alarm and continued on with
7 her conversation with the other patient's family. At approximately 0305 hours, while the ECG
8 alarm was still disabled, M83 experienced a cardiac event and expired at 0336 hours.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 9. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds
12 of unprofessional conduct, in that on or about June 22, 2008, while employed as a registered
13 nurse in the Intensive Care Unit at Tahoe Forest Hospital, located in Truckee, California, she was
14 grossly negligent by disabling M83's cardiac alarm.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Incompetence)**

17 10. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds
18 of unprofessional conduct, in that on or about June 22, 2008, while employed as a registered
19 nurse in the Intensive Care Unit at Tahoe Forest Hospital, located in Truckee, California,
20 Respondent demonstrated incompetence by disabling M83's cardiac alarm.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 11. Respondent is subject to discipline under Code section 2761(a), on the grounds of
24 unprofessional conduct, in that on or about June 22, 2008, while employed as a registered nurse in
25 the Intensive Care Unit at Tahoe Forest Hospital, located in Truckee, California, Respondent
26 demonstrated unprofessional conduct by failing to return to the hospital the following day to
27 speak with her supervisors and complete the required patient care paperwork regarding the death
28 of M83.

1 PRAYER

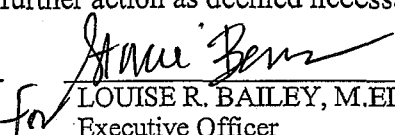
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 418170, issued to Eve
5 O. Allaway;

6 2. Ordering Eve O. Allaway to pay the Board of Registered Nursing the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125:3; and,

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: NOVEMBER 15, 2012

11 *for*  LOUISE R. BAILEY, M.ED., RN
12 Executive Officer
13 Board of Registered Nursing
14 Department of Consumer Affairs
15 State of California
16 Complainant

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